

U.S. COURT OF APPEALS
FOR THE FEDERAL CIRCUIT,
Washington, DC, December 18, 2006.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR ARLEN: With the new Congressional leadership suggesting a Continuing Resolution at the 2006 appropriated level, the Judiciary is threatened with degradation of essential functions because of increased costs mandated by law. Thus, the funding level of 2006 applied in 2007 has the effect of nearly a ten percent reduction.

Although the Judiciary can and should improve efficiency and do its share of belt-tightening, the funding reduction suggested would impede critical operations to a material degree.

As your own proposals on habeas corpus, NSA wire taps, immigration and other priorities illustrate, federal courts are becoming not less but more important to the welfare of the country and to its security.

I imagine the new leaders are so focused on eliminating earmarks that they are unaware of the operational impact of the cuts being discussed. In addition to the Appropriations Committee and subcommittees, surely the Judiciary Committee has a crucial role here. As a member of the Executive Committee of the Judicial Conference, I would welcome the opportunity to brief you and Senator Leahy on this urgent subject.

Best,

PAUL R. MICHEL,
Chief Judge.

Mr. SPECTER. Madam President, I ask unanimous consent that the chart showing the fiscal impact on the budgetary process from the fiscal year 2005 to the President's recommended budget of 2008 be printed in the RECORD, demonstrating the problems we have on adequately funding health, education, job training, and worker safety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fiscal Years 05 Through 07

<i>Dollars in billions</i>	
FY'05 Enacted	\$143.4
FY'06 Enacted	141.5
FY'07 President's Budget	137.4
FY'07 Budget Resolution—Specter/ Harkin amendment passed (73-27) Assumed an additional \$7 billion	
FY'07 302(b) allocation for Labor-HHS over the FY'07 budget	+5.0
FY'07 Senate reported bill	142.4
FY'07 Continuing Resolution thru Feb 15, 2007	142.1
FY'07 H.J. Res 20 plus additional sub- committee allocation	+2.3
Total Labor-HHS in H.J. Res 20	144.4
Total over FY'07 President's budget	+7.0

Fiscal Year 08

<i>Dollars in billions</i>	
FY'05 Enacted	\$143.4
Inflation as measured by the price index for the GDP:	
To restore to the FY'05 level plus FY'06 inflation—3.1	3.5
To restore to the second year (FY'07) inflation—2.5%	2.9
To restore to the FY'08 inflation— 2.4%	2.9

NIH:

To restore NIH plus FY'06 bio- medical inflation—4.5%	1.3
To restore NIH plus FY'07 bio- medical inflation—3.7%	1.1
To restore NIH plus FY'08 bio- medical inflation—3.7%	1.1

<i>Dollars in billions</i>	
FY'08 with inflation only	156.2
FY'08 President's budget	141.5

Shortfall

Based on the updated inflationary costs—the FY'08 President's budget would require an additional \$14.7 billion or 10.4% more to fund programs at the FY'05 inflation adjusted level.

Mr. SPECTER. Madam President, I ask unanimous consent that the summary prepared by the Congressional Research Service as to the use of the procedure to fill the tree since the 99th Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—INSTANCES WHERE A SENATE MAJORITY LEADER OR DESIGNEE FILLED THE AMENDMENT TREE: 1985–2006¹

Congress	Senate Majority Leader	Number of times floor leader/desinee filled the tree	Measures/subjects on which tree was filled
99th (1985–1986).	Robert Dole (R-KS).	5	Congressional Budget Resolution Public Debt Limit Legislation National Defense Authorization Act
100th (1987–1988).	Robert C. Byrd (D-WV).	3	Parental and Medical Leave Act Campaign Finance Reform Omnibus Trade and Competitiveness Act of 1987
101st (1989–1990).	George J. Mitchell (D-ME).	0	
102nd (1991–1992).	George J. Mitchell (D-ME).	1	Balanced Budget Amendment
103rd (1993–1994).	George J. Mitchell (D-ME).	9	Economic Stimulus Legislation Gays in the Military Senate Whitewater Investigation Minimum Wage Increase White House Travel Office Investigation Constitutional Amendment on Congressional Term Limits Immigration Control and Financial Responsibility Act
104th (1995–1996).	Robert Dole (R-KS). Trent Lott (R-MS) (As of 06/12/96).	5	
105th (1997–1998).	Trent Lott (R-MS).	3	Bipartisan Campaign Reform Act ISTEA/Transportation Funding
106th (1999–2000).	Trent Lott (R-MS).	9	Education (Ed-Flex) Social Security Lockbox Year 2000 (Y2K) Legislation Africa Growth Act H1-B Visa Immigration Labor-HHS/Ergonomics Homeland Security Act of 2002
107th (2001–2002).	Thomas A. Daschle (D-SD). 01/03/01—01/20/01 and also. 06/06/02—01/07/03. Trent Lott (R-MS). 01/20/01—06/06/02.	1	
108th (2003–2004).	William H. Frist (R-TN).	3	Energy Policy Act of 2003 Class Action Fairness Act Jumpstart our Business Strength Act
109th (2005–2006).	William H. Frist (R-TN).	5	Lawful Commerce in Arms Act Tax Relief Extension Reconciliation USA Patriotic Act Amendments Health Insurance Marketplace Modernization Act

¹ As of September, 2006. Preliminary draft, subject to additional review and revision.

Mr. SPECTER. I thank the Chair, and I yield the floor. I know my colleagues are waiting to speak.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

CONTINUING APPROPRIATIONS

Mr. REED. Madam President, I want to speak very briefly about the resolution pending, H.J. Res. 20, the resolution that is funding the Government for the remainder of the fiscal year.

I particularly want to talk about the veterans health care issues in this continuing resolution. This is not a perfect solution to the problem of funding our Government going forward. Nevertheless, it is, I believe, an equitable and fiscally responsible approach, particularly since we are trying to address the failure of the leadership in the last Congress to pass all the appropriations bills.

We are in a very difficult position where this continuing resolution will get us through this fiscal year and allow us to begin to work on the following year 2008 fiscal year appropriations bills and budget so we can take all of those in regular order and hopefully pass them all by the end of this fiscal year, which would be September 30. The continuing resolution we are discussing today freezes the level of spending at most agencies at fiscal year 2006 levels, while at the same time increasing funding for priorities such as caring for our Nation's veterans. This is one of the key priorities Senator BYRD and others insisted upon. Frankly, I want to commend Senator BYRD for his leadership, as well as other members of the Appropriations Committee, for bringing this continuing resolution to the floor.

The resolution before the Senate would make veterans funding a priority by adding \$3.6 billion above the fiscal year 2006 appropriated levels for the VA health care system. This is one of the few areas where there is a substantial growth in spending, and it is appropriate. If we do not take care of our veterans, then we are breaking a trust that they established by serving valiantly in the uniform of the United States, and we are sending a very bad signal to those young men and women who serve today. We honor their sacrifice by taking care of today's veterans, and certainly giving them the confidence that they will be taken care of in the future.

The VA estimates it will treat 219,000 more patients in fiscal year 2007 than it did in fiscal year 2006. So obviously they need the increased resources. The VA estimates it will have 4.2 million more outpatient visits this year than it did in fiscal year 2006, and the Veterans' Administration estimates it will treat almost 26,000 more patients on an inpatient basis this year than it did last year. For medical services and administration not provided, this increase would mean that the VA would be short more than \$250 million a month—not total but \$250 million a month—in funding for critical medical services, leaving the VA with little

choice but to push out waiting times, defer maintenance, and put off purchasing new equipment.

Included in this \$3.6 billion increase is an additional \$271 million for medical facilities. First-rate medical facilities are essential to deliver first-rate health care services to our veterans. The additional funding will ensure that leaky roofs and broken pipes will be fixed in a timely fashion. It also means there will be no disruption in food and dietetic services for veterans seeking inpatient care at any of our VA medical centers throughout the Nation.

These are not designed to scare veterans or the American people, that the VA was close to facing some of these maintenance problems and some of these basic problems of feeding veterans at hospitals. That is the reality unless we act today. That is why it is so essential that we not only increase this funding for the Veterans' Administration but we also pass this continuing resolution in a timely fashion.

We don't need to look too far back in history to see what shortchanges at the VA would mean. This Senate stood united on both sides of the aisle a year and a half ago when the administration's poor actuarial modeling and budget created a shortfall of almost \$3 billion. It was the Congress that responded. If we do not pass this resolution, which includes the needed additional funding for the Veterans' Administration health care system, we will have no one to blame but ourselves for this shortfall.

I don't think we can face veterans and active soldiers and say we did not pass this budget, this continuing resolution. That is why the resolution made veterans the No. 1 priority. They have defended this country bravely, honorably, and at a minimum we owe them this increase.

I thank Chairman BYRD for his leadership. I urge my colleagues to swiftly pass this measure so we can continue to serve those veterans who have served this country so well.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Madam President, I applaud the Senator from Rhode Island, my colleague, someone committed to standing up for what our veterans need. My hope is that we are not only fixing roofs in the future but we are actually updating facilities that need to be updated to be able to handle the increasing veterans population. Many of those facilities are in my State of North Carolina.

I take somewhat of an objection to something he stated—that we are here today because of our lack of moving these bills in the last Congress. This Senate requires tremendous bipartisan support. Without that bipartisan support, things come to a screeching halt. That is what happened last year. It was described as an election. There were some who did not want to see an appropriations process happen.

As a matter of fact, it happened some time ago in this Senate, when the majority and the minority were in different positions, when the majority came in and was handed the appropriations bills. We were in the majority. I wasn't here, but my understanding is that they went through days, if not weeks, of amendments. They came up with an omnibus bill. That is not what we did here.

We are headed into 2007, the 110th Congress, but what was the action? The action today was that the majority leader came to the Senate and offered the resolution, filled the amendment tree, filed cloture, and went off the bill. We are debating this in morning business. We are not debating it as part of the resolution.

Now, I correct my dear friend, Senator SPECTER, from Pennsylvania. He said no amendments would be offered. In fact, there were two amendments offered. They were offered by the majority leader. The first one was at the end of the resolution, this multipage document, add the following:

This division shall take effect two days after the enactment.

And then he filed a second-degree amendment that said: In the amendment strike 2 and insert 1.

Not a lot of substance to that amendment. Not much at all. As a matter of fact, it is hard to find someone here who can actually state what it means. And grammatically, what he has done is he has now changed the amendment to say: This division will take effect "one days" after date of enactment. That is how much attention the majority leader spent on his own amendments.

Now, the fact that he did this, what does it do to the rest of us? It means we cannot offer amendments. It means that for those who are concerned with the BRAC process—which is a transformation of our military in the United States; it is a consolidation of our base structure; it is putting the right people at the right place, training for the right thing, so that America can be safer based upon new threats—what does it do? It doesn't fund any of it.

Here is a process that is supposed to be complete by 2011, and in 2007 we are going to fund none of what BRAC called for in the legislation passed by this body. In North Carolina, that is \$300 million to Fort Bragg alone. That money was to build barracks, a vehicle maintenance shop for the 4th Brigade Combat Team, and a multipurpose training range. Without these funds, none of that will be completed.

As a matter of fact, I can say, just like my colleagues who came to the Senate floor, that our military bases are everyone's; they do not belong just to the States in which they are located. Our military leadership, our soldiers, our military families have begun this multiyear process to meet the requirements that Congress has given to them in the legislation we passed, and now we have done it without the fund-

ing. We risk not only placing communities and bases in disarray, but we will delay vitally needed transformation in our military.

I don't understand how my colleagues on the other side of the aisle can look the American people in the eye, tell them they support our sons and daughters, husbands and wives, brothers and sisters overseas, and simultaneously refuse to add the critical funds needed to take care of those very same troops—their families, their children, their husbands, their wives, their children—here at home. But the actions of the majority leader have, in fact, accomplished just that because there is not an opportunity for me, or for Senator HUTCHISON, who is the ranking member on the Committee on Appropriations Subcommittee on Military Construction, to offer an amendment—one that would be overwhelmingly accepted. But if you allow one, potentially you have to allow another.

Fort Bliss, TX, which is scheduled to absorb 17,000 soldiers and 10,000 family members under BRAC, is losing \$463 million because Congress did not fund it in this continuing resolution. Fort Benning, GA—\$300 million that was going for barracks for the troops and a brigade training complex.

What does this mean? It means that as we try to bring troops back in from Germany and other bases around the world—we have made a determination we do not need to forward-deploy like that—we can bring them back on our soil. They can be with their families in neighborhoods where they can feel like a part of the community instead of on foreign land where only the base is considered United States territory. It means we are going to have to keep them there, or we will have to bring them back here but not have the housing for them. I have gone through that in Fort Bragg. I have had 18- and 19-year-old soldiers living in 1950s era barracks, and the Congress, in their infinite wisdom, was able to fund the type of housing that was needed at Fort Bragg and many other installations.

Now, at a time when we have already planned for these families and these troops to come back, what does Congress say? I am sorry, we will not fund it in this bill? We are going to wait until 2008, and then it may or may not be funded? Maybe that is an objective on someone's part to try to knock BRAC off and to not have this consolidation. If it is, they have to question the decisions made by our military leaders and agreed to by Congress that said this is in our long-term best interest. It doesn't end with the discussion on BRAC, as sorry as I am to see a process that excludes our ability to effect the funding that is needed for military construction and for the base realignment and closure process.

Late last year, in the last week this Congress was in session in the 109th Congress, we passed what I thought was one of the most important pieces of legislation the 109th Congress dealt

with. It dealt with the threat we are faced with from chemical, biological, radiological and nuclear threats, naturally produced, intentional, or accidental. It dealt with things such as anthrax and smallpox, Ebola and Marburg. We were challenged to try to revamp our entire structure of countermeasure research and development in this country, and I daresay by unanimous consent in the Senate and in the House of Representatives we passed that important bill, one that identified the problems we had in America but, more importantly, the problems we had with our ability to take basic research, in many cases funded by companies or by the National Institutes of Health, and to convert that basic research into a countermeasure, a vaccine, an antiviral that would give us the security of being able to look at the American people and say: If terrorists get ahold of anthrax, don't worry, we have something to protect you. We have a vaccine we can give you. If, by chance, Marburg, a disease, gets out of Africa, we have a countermeasure we can give to you if, in fact, you are infected.

We were able to create this new entity which actually put the Federal Government in a position where we have facilitated the commercialization of that basic research, where we did not rely on only 1 company out of 100 to succeed because somehow they were able to go into the private marketplace and find enough money to make it through this challenging drug and vaccine development and approval process designed in America. We created the Biomedical Advanced Research and Development Authority, referred to as BARDA. BARDA was the structure at the Department of Health and Human Services. It was a structure that was under development for 2 years in Congress—enough time that sunlight was brought to every piece of it. I daresay it was one of the most open processes this Senate has seen in some time. Members had the opportunity to address every word of every sentence of every paragraph of the bill. At the end of the day, they were convinced it was the right piece of legislation, and it was passed into law.

There is only one problem. We have it in place now, and the continuing resolution doesn't fund it. Yes, \$160 million was intended to be in the appropriations bills to kick start BARDA, to allow this structure to be set up under a new Assistant Secretary for Preparedness and Response and to begin to sort through the research being done at academic institutions across the country, small pharmaceutical companies, biotechnology companies, big PhRMA and to get them all to participate because for the first time they knew what the rules were.

We added a number of biological agents to our threat list. That is a function the Secretary of Homeland Security does on a regular basis as we see new threats arise. When we increase the size of that threat list, that

means somebody has the responsibility in the Federal Government to begin an intense research and development process to try to create a countermeasure for it. One would think at a time when we just doubled the size of that potential list of threats that it would be high on the priority list of the Congress of the United States to fund the only mechanism we have to actually create the countermeasures. But, no, in this particular continuing resolution, it is minus the \$160 million to fund BARDA.

Even worse than that, there is no opportunity in this process to offer an amendment to a bill that 100 percent of the Senators present that day voted for, that the House voted unanimously for and the President signed into law just last December.

On one side, we put our soldiers and their families on hold. To some degree, we put on hold the plans of our military leaders. On the other side, we recognize the threats we face from people who want to do bad things and from Mother Nature. We understand the responsibilities we have to prepare these countermeasures, these vaccines, these antivirals for the entire population, and we still cannot fund it. I guess we are not having the debate because we know it would become law, it would be funded. And if it was funded, then we would break the caps, so we would have to find somewhere else to get the money.

I was willing to come to the floor and propose some ways to get the money or to propose to my colleagues that I thought it was important enough that we break the cap by \$160 million, which I seldom do on this floor. This is in the face of not only the threats we know about, but it is also the threat of pandemic flu. It is those natural things such as pandemic flu that we cannot look down the road and know what is around the corner. But if we have the right mechanism in place and if it works and if it is tested, we can respond in an expeditious way and begin to have those things we think are so important for the American people.

BRAC will not be settled in this continuing resolution. We will put our military on hold. We will put the changes on hold. If that has an effect on our tempo—even at a time we are at war—I guess some have made a decision that is the way it is. As it relates to bioterrorism, chemical, biologic, radiological, even pandemic flu, we put that on hold, too, because we are not going to fund the creation of the project.

We did all that because of two amendments—two amendments—that were offered by the majority leader: “At the end of the resolution add the following; this division shall take effect 2 days after date of enactment,” and followed up by a secondary amendment that says, “In the amendment strike 2 and insert 1.” Now we have an amendment that says—or a law that says—this division shall take effect “1

days” after enactment—clearly, no thought. It is a nice way of shutting us out from offering amendments.

I do not think the plan for this bill was to set a host of unlimited amendments. As a matter of fact, I hope and I believe we will finish the continuing resolution before the 15th, which is the date the Federal Government's money runs out. There is no scare or threat the Federal Government is going to run out of money and shut down. I think every Member is committed to do that. I am, too.

But I think it is important that we come down and talk about the things we left out but, more importantly, that we point out to everybody the fact that we were not even given the opportunity to put them back in, that when we denied the ability of Members of the Senate to consider changes to a bill—much less not have a vote—we have cut the American people out of the process, we have cut out the people who send us here to represent them. Sometimes they like it, sometimes they do not, but they expect us to take a position.

Well, that is what could have happened with two very valuable amendments, two that I believe would have overwhelmingly been accepted. Would it cause a little difficulty on our part trying to figure out where to take the money from? Probably so. But right now, in the scope of everything we are faced with, I cannot think of two more important things for us to have in this continuing resolution than to fund the troops, their families, their housing, their daycare, their schools, and to allow this transition in our military to take place as it relates to the consolidation of our bases around the world.

I certainly cannot think of anything that gets very much higher on the priority list than to make sure we have the vaccines, the countermeasures, the antivirals one might need if, Heaven forbid, we were ever attacked using chemical, biological, radiological or nuclear weapons or, in fact, Mother Nature is just so mean to us. In fact, the threat is so extensive to our country, we need to be prepared.

We could be there. We will not be there, but we could. And it is all because of the choices that were used to move this bill.

I thank the Presiding Officer for her indulgence, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Thank you, Madam President.

Madam President, when we convened here in January, we had an unprecedented meeting of the new Members of the U.S. Senate, both Republican and Democratic, in the Old Supreme Court Chamber where the Senate used to meet. There were a lot of very nice speeches by the new majority leader, Senator REID, and by the Republican leader, Senator MCCONNELL, about efforts at bipartisan cooperation. I think those were welcomed by all of us and I think welcomed by the American people as well because, frankly, I think

they believe—and I think they are right—sometimes there is too much emphasis put on party and not enough emphasis put on the well-being and the welfare of the American people at large.

Well, we had a good start. We started out on ethics and lobbying reform. As you will recall, we initially had a vote to close off debate, and we got over that minor hurdle after that cloture motion lost and we were able to shape a bill that got the support of an overwhelming bipartisan majority of the Senate on lobbying and ethics reform. So that was a good start.

Then we moved on to the minimum wage and small business tax and regulatory relief. And we had, I guess, another period of testing there, people trying to figure out what all this new majority and new minority meant and how we might work together. Lo and behold, we got through that in a bipartisan way, and we passed a minimum wage bill, with small business tax and regulatory relief that, again, I think we could all look at and say: I don't agree with 100 percent of it, but on balance this is a good bill. This is the kind of thing we ought to be doing together.

Well, I would say that notwithstanding that good start—and I think it was a good start—we have stumbled a little bit in recent days. We see a resolution on the Iraq war where we have requested the opportunity to present alternatives that reflect the diversity of views in the Senate. Yet the majority leader, in his wisdom, decided we were not going to have an opportunity to vote on those different views, some of which are espoused by his own caucus. So we are not able to get to a vote on any of those resolutions—yet. I predict they will come back. We will be back on those issues. The issue itself is not going to go away. We are going to have plenty of opportunities to vote on whether we are going to support our troops and the mission we have called upon them to do.

But, here again, we have stumbled again on this continuing resolution. It is not, as we all know, technically speaking, a continuing resolution, which would be to continue the spending at levels of 2006 into the 2007 year. This is really what would probably more properly be called an Omnibus appropriations bill. Rather than breaking things down into their constituent parts and passing, let's say, a Department of Defense bill, a Labor, Health and Human Services bill, and different appropriations bills, this is one big, huge, appropriations bill and I think most appropriately called Omnibus appropriations.

Although I will correct myself. I think this is really—if I had to give it a name, I would call it an “Ominous” appropriations bill. The reason I say that is for the reason that has been pointed out by a number of our colleagues today. What it does is it demonstrates an unwillingness to provide the financial resources necessary for

our military during a time of war. And I think that is ominous. I hope it does not give us a foretaste of the future, when we have seen our military underfunded at times and resulting in a later effort to try to catch up.

I remember the Secretary of the Department of Defense, Secretary Gates, just a couple days ago, in the Armed Services Committee, of which I am a member, said: Do you know what. We would accept a lower level of funding if it was kept relatively constant so we could actually plan rather than have the spikes and the valleys, the changes from year to year, from appropriations bill to appropriations bill.

But my point is, this bill, by cutting \$3.1 billion from our military during a time of war, is simply penny-wise and pound-foolish. I may be too generous when I say it is penny-wise because the money that is actually cut from the military is then distributed through a variety of other programs, which means in the end, when we pay the bill, which we ultimately will have to pay, we are going to add to the debt rather than—and we have seen \$3.1 billion in new spending that could not otherwise be done without cutting the military—but causing us problems by exacerbating a deficit that none of us would like to see compounded.

But I want to mention—because I just met with MG Robert Lennox, who is the commanding general at Fort Bliss in El Paso, TX—El Paso will, as a result of this last Base Realignment and Closure Commission, receive an additional 20,000 new uniformed servicemembers and about 25,000 in addition to that, for a total of 45,000 people, including the family members who will move there. The \$3.1 billion that was cut from this bill will have a direct impact on General Lennox's ability to build the infrastructure necessary to accommodate those 45,000 servicemembers and their families in El Paso, TX.

It also will have an impact on places around Texas such as Camp Bullis where an Armed Forces Reserve Center is in jeopardy; places at Fort Sam Houston, which is a principal location for Army medicine; places such as Grand Prairie; Seagoville; Fort Worth Joint Reserve Base; Carswell Air Base; Lackland Air Force Base in San Antonio, my hometown; Laughlin Air Force Base in Del Rio, TX; and Randolph Air Force Base, also in San Antonio, TX.

All of those various programs to try to build the infrastructure and accommodate this Base Realignment and Closure Commission are in some jeopardy, and it is because our colleagues, the leadership on the other side, has determined that, without an opportunity for amendment, without an opportunity to vote on alternatives, we are going to take \$3.1 billion from the military and give it to other programs and projects.

The problem we have in an All-Volunteer military is that we depend not only on our ability to recruit service members but also to retain those service members in our All-Volunteer mili-

tary. And, of course, quality of life issues are very important—housing, various facilities. Of course, I mentioned this earlier today, but the saying goes: You recruit a servicemember, you recruit an individual, but you retain a family because it is important we provide the services to sort of cushion the sacrifices that so many family members make when their loved one is serving in our Armed Forces.

I am disappointed to see what started out as laudable efforts at bipartisan cooperation in the way we craft legislation on the floor of the Senate sort of degenerate into partisan railroading of important legislation. I fear what will happen is, when we come back to the supplemental appropriations bills that will be necessary to fund our military, we will then, out of these emergency supplemental appropriations, try to make up for this \$3.1 billion.

The only difference is that it will result in \$3.1 billion in new spending rather than the required offsets that would be necessary to maintain fiscal responsibility. An amendment that the senior Senator from Texas and I have cosponsored, along with others, would provide such an offset. And if allowed to have a vote on that amendment, for less than a three-quarters of 1 percent, across-the-board cut in this Omnibus appropriations bill, exclusive of defense spending, we could restore the complete \$3.1 billion that this current Omnibus appropriations bill cuts. We could tell our men and women in the military that we not only appreciate and support them but actually back that up with real action and a real financial commitment to make sure they have what they need.

I am disappointed that after we got off to such a good start in terms of bipartisan cooperation, we find ourselves now where the majority party is attempting to dictate the terms of this Omnibus appropriations bill, without any input, without any opportunity for votes on any amendments that some of us believe are in the best interests of the military and in the best interests of the country. It represents an unfortunate and unwelcome development.

In the end, I predict the new majority will learn what the old majority learned, that no single party gets to dictate how things happen around here because of the 60-vote requirement to close off debate. The magic number, of course, for the majority is 60. The magic number for the minority is 41. That gives us the power we need to get a seat at the table. But it is clear that the majority leader has made a calculation that he can pass this legislation without any contribution, any amendments, any opportunity to vote on important amendments. Unfortunately, not only is the kind of bipartisan cooperation we started off with during the first month we have been here in January the loser, I am afraid as a result of this ill-advised cut in our military that our military is the loser as well.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to address my serious concern about our consideration of H.J. Res. 20, an Omnibus appropriations measure, rather than completing our work on the remaining 2007 appropriations bills. As my colleagues are well aware, fiscal year 2006 appropriations expired on September 30, 2006. And with the exception of the Departments of Defense and Homeland Security, the Federal Government is currently operating on its third temporary continuing resolution set to expire next week. We are now considering a fourth continuing resolution, H.J. Res. 20, to fund the Government through the end of the fiscal year.

Passage of a continuing appropriations resolution, as some have incorrectly labeled it, is not the solution to our outstanding appropriations obligations. This de facto Omnibus appropriations bill covers almost 50 percent of the Federal discretionary budget at a cost of \$463.5 billion. Repeatedly managing by continuing resolution, as we have done for nearly half a year, is inherently wasteful and inefficient. It results in wasteful spending, disruption and chaos in the operations of Federal programs, and dramatic productivity slowdowns. So many of our agencies have been in limbo during the last several months.

In recent years, many Federal departments have taken positive steps toward streamlining their budgets and tightening the reins of their daily operations, conduct that ought to be rewarded. Instead, when Congress failed to complete its appropriations work on time, these departments were forced to put critical projects on hold.

Such a funding shortfall has particularly adverse effects on human-capital-intensive agencies, such as the Government Accountability Office where attracting and retaining good employees is critical to running a competitive and productive organization. Agencies such as the GAO have made it clear that without budget certainty, they risk losing top-quality personnel. They are unable to properly recognize and reward individuals for good service which often pushes employees to look for other nongovernment opportunities.

For too long we have allowed a negative perception of Government workers to dominate our thinking, and we have not committed the necessary resources to funding and keeping capable, hard-working civil servants. This human capital problem contributes to a negative perception of the Federal Government, and it prevents important departments and agencies from providing their customers, our constituents, with the necessary goods and services they deserve.

Just think of somebody who is thinking about coming to work for the Federal Government and they have heard that we haven't been able to pass a

budget or appropriations around here for 5 months. What kind of an organization do they think we are?

This added pressure on human capital is not limited to the GAO. In fact, there are lots of similar agencies, such as the SEC, the FBI, and the IRS, which experienced the same problem over these past 5 months. There are going to be horror stories all through this year as a result of the fact that we are going to pass a continuing resolution or an omnibus resolution.

Additionally, long-term budget uncertainty caused many companies with Government contracts to lay off people. Our inability to complete the appropriations work prevented agencies and departments from adequately planning programs and ultimately interfered with the timely award of contracts. So for the past 5 months, contractors have been uncertain whether work would be available and were forced to put a freeze on hiring. I understand that.

Two years ago, I had a nephew working for a company that had a contract with NASA. They said: They haven't passed the budget. They laid everybody off. And it wasn't until several months later that finally they could bring people back on. By that time, they had lost half their people.

Sometimes programs are ineffective, and their budgets should be reduced or eliminated. For example, under the normal appropriations process, the House would have terminated 53 programs, for a savings of \$4 billion. Well, an omnibus can reduce the budget, but it goes about it in entirely the wrong fashion. Instead of undergoing negotiations and discussions over the individual merit of specific programs, the omnibus indiscriminately cuts and appropriates funds. This is neither a thoughtful nor responsible approach to managing our budget.

On the flip side, there are many programs and agencies in which we ought to be investing more resources. By failing to pass the outstanding appropriations bills and by passing an omnibus bill instead, we are ignoring America's infrastructure which is the foundation of our economy. Our physical infrastructure is a critical component of making America more competitive and maintaining our quality of life for future generations. But if we keep up this attitude toward our fiscal obligations, if we continue ignoring the upkeep of our infrastructure, we risk tremendous disruptions to our commerce and decrease protection against natural disasters. Hurricane Katrina was a wake-up call for all of us and makes the point. Had we completed our appropriations work on time and adequately funded the Army Corps of Engineers, we would have been attending to the needs of the country. For nearly half a year, we could have brought in more civil engineers, increased construction, designed stronger levees, and made real progress on improving water infrastructure. Instead, we are 5 months be-

hind in the construction of our infrastructure and even further behind keeping our Nation competitive and safe.

What about our dependence on foreign sources of energy. I still believe one of this Nation's most pressing challenges is reforming our national energy policy. Finding a way to harmonize our energy, economic, and environmental concerns is critical to keeping our Nation strong. I know my colleagues here today agree with me that we need a second declaration of independence and that we must invest in new, alternative forms of energy. This body failed to complete its appropriations work on time, and now we have uncertainty at a critical moment when we are trying to free ourselves from entanglements in the Middle East and increase our competitiveness in the global marketplace.

If we had funded the appropriations in the routine manner 5 months ago, the Nuclear Regulatory Commission could have been preparing for the estimated eight applications it expects to receive this year from the nuclear energy industry for the construction of new nuclear reactors. Let me add the NRC anticipates receiving an additional 22 applications next year. They have been furiously working to prepare for this tidal wave of construction which requires hiring an additional 300 or more people. They haven't been able to do it because the budget hasn't been there because we have been fiddle-faddling around over here.

Yet our failure to act has delayed this process. It has introduced uncertainty for both the NRC and the nuclear energy industry at a time when we cannot afford to be dependent on foreign sources of oil. Our inability to fulfill our fiscal responsibilities has put the NRC 5 months behind in preparation, and it has put the country behind on the road to energy independence.

It is not just the Federal Government that suffers. States, counties, cities all depend on funding from Washington. I was a county commissioner. A part of our budget was the Federal budget. I was mayor of Cleveland. Part of our budget was Federal money coming into the city. All of these local governments, State governments right now have been in limbo trying to figure out when we are going to do our job.

Maintaining and improving America's transportation system is also vital to our economy, the environment, and the welfare of the American people. The Interstate Highway System is one of the country's greatest public works projects but requires a Federal investment. States plan their highway construction programs for the coming year based on their anticipated Federal funding set by SAFETEA-LU. By failing to pass the 2007 Transportation appropriations bill, States could not plan for the future and were forced to delay construction projects for the upcoming year.

I will get a report on that from around the country on all the projects that are going to be delayed because we didn't do our work or that are not going to move forward.

In my State of Ohio, for instance, construction costs and increased inflation forced our Department of Transportation to cancel and postpone nearly \$450 million in highway projects. They didn't know what they were going to get.

Democrats have a right to point fingers at Republicans for failing to complete their work on the outstanding appropriations before December. But let's be clear, Democrats behaved equally poorly when they lost the majority in 2002. At that time, Majority Leader Daschle was unable to pass a budget for 2003. Subsequently, Democrats did not complete their work on appropriations before going home for the winter recess. When we came back in January 2003, we took up the issue of appropriations within 3 days. We passed three continuing resolutions through February 20, at which point the Senate voted on an omnibus bill, much the same as we are doing today.

The fact is, we both have dirty hands. This is not just a Democratic or Republican issue. Both parties have acted irresponsibly. Congress has the power of the purse, but we are not the best steward of the taxpayers' money if time and time again we blindly pass omnibus bills and fund programs without accounting for how those programs are performing.

These are not isolated instances. Let me point out—and the public should know—in 25 of the past 30 years, Congress has failed to enact all the appropriations bills by the start of the fiscal year. In fact, the last time Congress enacted appropriations bills by the September 30 deadline was 1997. And for 17 of the past 30 years, Congress has had to combine two or more appropriations bills together in omnibus and minibus legislation. When are we planning to get it done on time? By failing to do our job, we are starving the executive branch of Government and preventing it from doing its job. This is irresponsible.

One way around this annual appropriations problem is to convert the annual budget cycle into a biennial or 2-year cycle. This would save Congress valuable time eaten up every year debating appropriations matters. We spend most of our time on agency appropriations, on the budget, and no time on oversight. Under biennial budgeting, we would convert the annual budget, appropriations, and authorizing processes into a 2-year cycle. The first year would be reserved for the budget and appropriations process. The second year would be to conduct oversight and pass authorizing legislation. This would leave Congress more time to examine programs to determine which are wasteful, which should receive more funding and which should be terminated altogether. Congress

would have more time to finish its business by the deadline the law imposes.

A 2-year budget proposal is long overdue. We have been talking about this since I came to the Senate in 1999, Senator DOMENICI and I and many others. We ought to reintroduce that bill. In fact, I intend to reintroduce that bill with several of my colleagues to see if we can't go to a 2-year budget cycle.

Operating without a budget impacts our effectiveness in fighting the war on terror. It affects our ability to maintain and improve our transportation infrastructure and enhance our education system. You will be hearing more about that from Senator ALEXANDER. It further contributes to the public perception that Congress has no appreciation of the importance of management and the impact of our irresponsible conduct on the delivery of services to the people in the States—our constituents. It is incredible to me, as someone who has been a mayor and Governor, that the Senate has not completed its appropriations work.

In Ohio, the law mandated that we complete our appropriations responsibilities by the end of the year. And it was the same way when I was mayor of the city of Cleveland. The city charter mandated that we do our work. If we had not completed our budget and appropriations work, we would have been reprimanded by the media roundly and recalled by the voters. Of course, we were also bound to balance our budget, which this body has been unable to do since 2000.

We have been on the path of fiscal irresponsibility for too long. Given the facts, it is an indication to the American people that we are not doing our job, our work. Congress may hold the power of the purse, but we undermine our credibility by starving good managers and agencies of necessary resources and by turning a blind eye to failing programs. This is about more than allocating funds, it is about good management and good public policy.

All of us, on a bipartisan basis, should pledge that we will not shirk our responsibilities by passing a de facto omnibus piece of legislation. As important, at this stage of the game, we should vow, all of us—the majority leader and our minority leader should come together on the floor of the Senate and pledge to the American people that we are going to pass our budget, and we are going to get our appropriations done by the deadline we are supposed to have it be done by, so next year we are not repeating the same thing we have this year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. The Senator has that right. We are now in morning business.

THE BUDGET

Mr. ALEXANDER. Mr. President, no Member of the Senate has more experience in various levels of government than the Senator from Ohio, Senator VOINOVICH, who just spoke. He was a commissioner, a mayor, a lieutenant Governor, a Governor, and a Senator. Since he has come here, no Senator has spent more time on the drudgery—some Senators would say—of understanding the operations of government, how the budget decisions we make affect different parts of the Federal Government, different parts of society, the State and local governments, and how the civil service system works, how employees are fairly treated. I salute the Senator for his work.

I think we ought to hear him carefully when he reminds us of one of the most obvious solutions to that problem, the 2-year budget. That idea has broad support in this Chamber, and it is a very simple idea. It says we will make our budget every 2 years. If we have to make adjustments in the odd year, we can do that. We already do that from time to time, but then in the intervening year, we would have plenty of time to look over our programs, make sure they work, and perhaps repeal some of them and add some better ones and check the stacks of regulations. If you look at all of the regulations that small colleges in Ohio and Tennessee have to wade through every year, that stack is very high. I brought them down on the floor one time. Surely, we can get rid of those. On both sides of the aisle we would like to do that. Our process doesn't appear that way. As our Republican whip sometimes says, process is often substance in the Senate, and a 2-year budget would be a force for orderliness, a force for review of programs; it would cause us to repeal and change and revise laws.

We have plenty of forces for adding laws or spending more money. We need forces for review and repeal. The people around America who elect us and depend upon us to provide the funds we provide in an orderly flow could then make their plans and spend the money more wisely. The example the Senator from Ohio gave is a good one, about the Nuclear Regulatory Commission. On this floor, what do we hear more often than anything else now? We hear let's stop the dependence upon foreign oil or at least let's reduce it, and let's deal with global warming.

How do we do that? There are lots of different ways to try to do that, but in a country such as ours that produces and uses 25 percent of all of the energy in the world, we don't have many ways to produce large amounts of carbon-free energy; 70 percent of our carbon-free energy comes from nuclear power in the United States. So when we slow down the processing applications for new nuclear power plants—a process we invented, which our Navy used without incident since the 1950s, a process